

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**October 2, 1997**

DIVISION TWO

B095083      People                                  (Not for Publication)  
v.  
Floyd & Tate

The judgments of conviction are affirmed. The sentences imposed as to each defendant for counts 2 and 4 are stayed.

Zebrowski, J.

We concur:   Boren, P.J.  
                      Fukuto, J.

B104418      People                          (Not for Publication)  
v.  
Shaw

The Court:

The judgment is affirmed.

Boren, P.J., Fukuto, J., Zebrowski, J.

B103292      People                          (Not for Publication)  
v.  
Bell

The Court:

The judgment is affirmed.

Boren, P.J., Nott, J., Zebrowski, J.

### October 2, 1997-Continued

## DIVISION TWO (Continued)

B108259 People (Not for Publication)

v.  
Wommack

The Court:

The judgment is affirmed.

Boren, P.J., Nott, J., Zebrowski, J.

B105155 People (Not for Publication)

V.  
Bowden

The judgment is affirmed.

Zebrowski, J.

We concur:   Fukuto, Acting P.J.  
                      Nott, J.

B105687 Pine Cobble Funding Corporation (Not for Publication)

v.  
Nelson

The entry of default and entry of default judgment are reversed with directions to conduct further proceedings in accordance with the views stated in this opinion. Each party to bear their own costs on appeal.

Zebrowski, J.

We concur: Boren, P.J.  
Fukuto, J.

DIVISION TWO (Continued)

B099081      Western Landscape Construction      (Certified for Publication)  
                 v.  
                 Bank of America

The judgment is reversed and remanded for further proceedings consistent with this opinion. Appellant Western Landscape to recover costs on appeal.

Zebrowski, J.

We concur:    Boren, P.J.  
                 Ito, J. (Assigned)

DIVISION THREE

B109890      People      (Not for Publication)  
                 v.  
                 Beery

The Court:

The judgment is affirmed.

Klein, P.J., Croskey, J., Kitching, J.

DIVISION FOUR

B066399      People      (Certified for Partial Publication)  
                 v.  
                 Greenberger, et al.

Lowe's judgment is modified by staying the sentence imposed for second degree murder until completion of the term imposed for aggravated kidnapping, at which time the stay is to become permanent, and, as modified, the judgment is affirmed. The superior court is directed to prepare an amended abstract of judgment accordingly.  
The judgments as to Greenberger, Mentzer, and Marti are affirmed.

Weisberg, J. (Assigned)

We concur:    Epstein, Acting P.J.  
                 Hastings, J.

DIVISION FOUR (Continued)

B103416      First Republic Thrift & Loan      (Not for Publication)

v.  
Fugatti

The judgment is affirmed. Mrs. Fugatti is to have her costs and fees on appeal.

Epstein, J.

We concur:    Vogel (C.S.), P.J.  
                  Baron, J.

B110275      People      (Not for Publication)

v.  
Hutchins

The judgment is affirmed.

Baron, J.

We concur:    Vogel (C.S.), P.J.  
                  Hastings, J.

B100995      People      (Not for Publication)

v.  
Simanjuntak

The Court:

The judgment is affirmed.

Vogel (C.S.), P.J., Epstein, J., Baron, J.

October 2, 1997-Continued

DIVISION FIVE

B105078      People      (Not for Publication)  
v.  
Man Soo Kim et al.

The judgments are affirmed.

Turner, P.J.

We concur:    Armstrong, J.  
                          Godoy Perez, J.

B108679      People                                  (Not for Publication)  
v.  
Avunuua M.

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The judgment is affirmed.

Grignon, Acting P.J.

We concur:    Armstrong, J.  
                         Godoy Perez, J.

[illegible]

The judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.  
Godoy Perez, J.

DIVISION FIVE (Continued)

B109569      Robert M. Orozco et al.      (Not for Publication)  
v.  
Lockheed Corporation et al.

We accept the stipulation and direct reversal of the judgment in compliance with the stipulating parties' agreement. In *Neary v. Regents of University of California* (1992) 3 Cal.4th 273, 284, our Supreme Court held: "We hold that, when the parties to an action agree to settle their dispute and as part of their settlement stipulate to a reversal of the trial court judgment, the Court of Appeal should grant their request for the stipulated reversal absent a showing of extraordinary circumstances that warrant an exception to this general rule. Any determination that such circumstances exist must be made on a case-by-case basis. Because we can only speculate as to the facts of future cases, we cannot enumerate with any specificity what facts may or may not constitute an extraordinary circumstance that would warrant denying the parties' request. We emphasize, however, that the policies favoring settlement are strong and that the extraordinary-circumstance exception is narrow." In the present case, there has been no showing of extraordinary-circumstances which would warrant this court in not complying with the stipulating parties' stipulation. Accordingly, we reject the proposed requests of the objecting defendants that we limit the scope of the stipulation. The objecting defendants have chosen not to settle and the consequences of that decision will be evaluated in future litigation.

The judgments in favor of the groups 1, 2, and 3 plaintiffs against defendants, Dykem Company, General Electric Company, and Products Research & Chemical Corporation, are reversed. The following jury findings are reversed: the group 1 jury's findings that defendant, General Electric Company, supplied inadequate warnings of the health hazards of "SS 4179"; the group 1 jury's findings that defendant, Products Research & Chemical Corporation, supplied inadequate warnings of the health hazards of "PR 5601-K" and "PR 1005-L"; the group 2 jury's findings that Dykem Company provided inadequate warnings on "Marking Black," "Marking White," "Thinner 27," and "Dykem Spray Remover SP-1138"; the group 2 jury's findings that General Electric Company supplied inadequate warnings concerning "DBT"; the group 2 jury's findings that defendant, Products Research & Chemical Corporation, supplied inadequate warnings of the health hazards of "PR 148" and "PR 5601-K"; the group 2 jury's findings that Products Research & Chemical Corporation and Dykem Company acted with oppression; and the group 3 jury's findings that

DIVISION FIVE (Continued)

B109569 Robert M. Orozco et al. v. Lockheed Corporation et al. (Continued)

Products Research & Chemical Corporation and Dykem Company acted with oppression. All operative complaints are ordered dismissed with prejudice as to defendants, Dykem Company, General Electric Company, and Products Research & Chemical Corporation. As to defendants, Dykem Company, General Electric Company, and Products Research & Chemical Corporation, the remittitur shall issue forthwith and all the stipulating parties which are the subject of this stipulation shall bear their own costs and attorney fees on appeal.

Turner, P.J.

We concur: Grignon, J.  
Godoy Perez, J.

B104942 People (Not for Publication)  
v.  
Mario Zermeno

The judgment is affirmed.

Turner, P.J.

We concur: Grignon, J.  
Armstrong, J.

B108525 People (Not for Publication)  
v.  
Jimmy Lee Caruso

The judgment is affirmed.

Turner, P.J.

We concur: Grignon, J.  
Godoy Perez, J.

## October 2, 1997-Continued

## DIVISION FIVE (Continued)

B103300 People (Not for Publication)

V.

Nathan Blalock

The judgment is affirmed.

Armstrong, J.

We concur: Turner, P.J.

Grignon, J.

B103210 People (Not for Publication)

V.

Robert Arturo Ayala

The judgment is affirmed.

Turner, P.J.

We concur: Armstrong, J.

Godoy Perez, J.

B109512 People (Not for Publication)

V.

Juan Manuel Avalos &amp; Juan Ortega

The appeals are dismissed.

Turner, P.J.

We concur: Grignon, J.

Godoy Perez, J.

## October 2, 1997-Continued

DIVISION FIVE (Continued)

B103728      People                                  (Not for Publication)  
v.  
Dwain Boudreaux

The presentence credit award is modified to reflect a total of 402 days. In all other respects, the judgment is affirmed. The superior court clerk is to prepare an amended abstract of judgment and forward it to the Department of Corrections.

Turner, P.J.

We concur:    Armstrong, J.  
                          Godoy Perez, J.

B110520      People                                  (Not for Publication)  
v.  
Khom Kat et al.

The appeals are dismissed.

Turner, P.J.

We concur: Grignon, J.  
Godoy Perez, J.

DIVISION SIX

Crim. People (Not For Publication)  
No. vs.  
B110200 Choice

The judgment is affirmed.

Coffee, J.

We concur:     Stone, P.J.  
                             Gilbert, J.

DIVISION SIX (Continued)

Civil	Cantor	(Not For Publication)
No.	vs.	
B108337	IHOP Corporation	

The judgment is affirmed. Costs on appeal are awarded to respondent.  
The request for sanctions is denied.

Gilbert, J.

We concur: Stone, P.J.  
Yegan, J.

Crim.	People	(Not For Publication)
No.	vs.	
B108357	Munoz	

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, Acting P.J.  
Yegan, J.

Crim.	People	(Not For Publication)
No.	vs.	
B111136	San Miguel	

The judgment is affirmed.

Coffee, J.

We concur: Stone, P.J.  
Yegan, J.

October 2, 1997-Continued

DIVISION SIX (Continued)

Crim.	People	(Not For Publication)
No.	vs.	
B111486	Poli	

The judgment is affirmed.

Yegan, J.

We concur: Stone, P.J.  
Gilbert, J.

DIVISION SEVEN

Court convened at 9:00 A.M.

Present: Lillie, P.J., Johnson, J., Woods, J., Neal, J., and Emma J. Amos, Deputy Clerk.

Each of the following:

B101650 People v. Bibbs & Bibbs  
B103363 People v. Guardado  
B103392 People v. Noriega  
B104079 People v. Santamaria  
B104266 People v. Vargas  
B104481 People v. Hughes  
B105086 People v. Galvan  
B105405 People v. Murphy  
B106035 People v. Crutcher  
B106811 People v. Webb  
B106950 People v. Hernandez  
B107344 People v. Contreras  
B108368 People v. Greenfield  
B108701 People v. Mendoza  
B105942 People v. Tangseefa  
B106004 People v. Lopez  
B107684 People v. Jackson  
B111775 People v. McCarter  
B109636 Dept. of Children's & Family Serv. v. Pamela K.  
B110637 Alicia A. v. Dept. of Children's & Family Services

Argument waived, cause submitted.

DIVISION SEVEN (Continued)

B103343     People  
              v.  
              Pitts

Merits:

Argued by Charlotte Costan for appellant and by Rama Maline, deputy attorney general for respondent. Cause submitted.

B104176     People  
              v.  
              Nelson

Appearances:

Nana Gyamfi for appellant and Beverly Falk, deputy attorney general for respondent. Argument waived, cause submitted.

B106073     People  
              v.  
              Pettigrew

Merits:

Argued by Catherine Case for appellant and by Valerie Baker, deputy attorney general for respondent. Cause submitted.

B101238     Young  
              v.  
              Peterson

Merits:

Argued by Guy Lewis for appellant and no appearance by counsel for respondent. Cause submitted.

DIVISION SEVEN (Continued)

B103419     People  
              v.  
              Ranger Insurance Company

Merits:  
Argued by Kenneth Weston for appellant and by H. Anthony Nicklin,  
deputy county counsel for respondent. Cause submitted.

B100283     People  
              v.  
              Torres, Linares and Coria

Merits:  
Argued by Paul Couenhoven for appellant and by Brad Levenson for  
respondent. Counsel for appellant Coria waives and no appearance for  
appellant Torres. Cause submitted.

B109801     Maynard  
              v.  
              Home Savings of America

Merits:  
Argued by Paul Cane for appellant and no appearance by respondent. Cause  
submitted.

B110876     Southern Calif. Gas Company  
              v.  
              Calif. Occupational Safety & Health Appeals Bd.

Merits:  
Argued by David Reeves for appellant and by Robert Murray for  
respondent and by Albert Cardenas for respondent. Cause submitted.

DIVISION SEVEN (Continued)

B114259     Anthony R.  
                 v.  
                 Superior Court of Los Angeles  
                 (Dept. of Children's & Family Services, r.p.i.)

Merits:  
Argued by Sarah Friede for real party in interest and no appearance by  
petitioner. Cause submitted.

B094146     People  
                 v.  
                 Taylor and Atlas

Matter taken off calendar.

B083215     Wills  
                 v.  
                 Tysch

Oral argument continued to November 6, 1997 10:00 a.m.

B105311     Lee  
                 v.  
                 Downey Savings & Loan Assoc.

Oral argument continued to December 4, 1997 10:00 a.m.

Court recessed at 10:30 A.M.

The Court reconvened at 2:00 P.M.

Present: Lillie, P.J., Johnson, J., Woods, J., Neal, J., and Emma J. Amos, Deputy Clerk.

DIVISION SEVEN (Continued)

B105690     Nava  
              v.  
              Burbank Unified School District

Merits:  
Argued by Jack Conway for appellant and by Kathy Gandara for respondent. Cause submitted.

B098798     Guzey  
              v.  
              Regents of The University of Calif.

Merits:  
Argued by Jeffrey Markel for appellant and by Brian Wright for respondent. Cause submitted.

B098096     Smith  
              v.  
              Blue Ridge Insurance Company

Merits:  
Argued by Genese Smith for appellant and by Susan Hannan for respondent and by Daniel Buckley for respondent and by John Frye for respondent. Cause submitted.

B105566     Martin  
              v.  
              Bencangey

Oral argument continued to November 6, 1997 2:00 p.m.

Court adjourned.

B101181     People  
              v.  
              Toribio

Filed order denying petition for rehearing.